



VCU

Faculty Mediation and Grievance Procedure

Policy Type: Administrative

Responsible Office: Office of the Provost

Initial Policy Approved: February 1997

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Policy Statement and Purpose

A. Scope of the Faculty Mediation and Grievance Procedure

Disputes are best resolved amicably and informally through effective communication within and between academic units, and it is expected that any Grievant shall have attempted to resolve any dispute with another individual with the assistance of the Department Head, Dean/Director, Vice President for Health Sciences or Provost/Vice President for Academic Affairs, and/or Ombudsperson before invoking the grievance process set forth in this Policy. Only those disputes that have not been resolved through good faith effort should proceed to the VCU Mediation Process. If the grievance is not resolved through the VCU Mediation Process, then the grievance may be submitted to the Grievance Panel according to the procedure and process described herein. All parties involved in the procedure will fulfill their roles with good faith effort.

Therefore, a grievance procedure is established for complaints that are not effectively within the purview of the UNIVERSITY RULES AND PROCEDURES or of the FACULTY PROMOTION AND TENURE POLICIES AND PROCEDURES. Nonrenewal of nontenured faculty or issues concerning salary, henceforth referred to as Type I grievances, are different from other grievable matters; however, faculty with grievances related to these issues should follow the procedure outlined in this document. All other grievances are referred to as Type II.

This procedure attempts to provide guidance for resolving grievances in a timely, consistent, and simple manner.

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Who Should Know This Policy

All academic units are responsible for knowing this policy and familiarizing themselves with its contents and provisions.

Definitions

Grievance

A grievance is a charge that a faculty member (“Grievant”) has been adversely affected in a direct, personal, or material way by a decision or action of another university employee (“Respondent”).

Parties to the grievance

The term "parties to the grievance" shall be defined as the party or parties lodging the grievance [the grievant(s)] and the party or parties against whom the grievance is lodged.

Schools

For purposes of this document, the College of Humanities and Sciences and the professional faculty of the University Library Services shall also be considered schools.

Working day

A working day shall be defined as a weekday, Monday through Friday, except for University and/or legal holidays.

Type I Grievance

Type I grievances are grievances concerning salary issues, nonrenewal of non-tenured faculty, or promotion or tenure issues not covered by the FACULTY PROMOTION AND TENURE POLICIES AND PROCEDURES.

Type II Grievance

Type II grievances are grievances covering issues other than those concerning salary, nonrenewal of non-tenured faculty, promotion or tenure.

Grievant

This Faculty Mediation and Grievance Procedure and process may be invoked by any active member of the Virginia Commonwealth University faculty. The term faculty shall include persons with full-time,

part-time, permanent, temporary, paid, or non-paid faculty appointments. A formal grievance may be lodged against a university employee by anyone holding Teaching and Research or Administrative and Professional faculty rank, so long as the person or persons filing the grievance are employed by the University at the time the grievance is filed.

Grievable Matters

The procedures outlined in this document are available when there is a charge that a decision or action of another individual is detrimental to a Grievant's professional career or personal well-being.

Non-Grievable Matters

i. Actions or decisions resulting from or subject to other established appeal policies or processes are not grievable. These include, but are not limited to, (a) tenure (See Faculty Promotion and Tenure Policies and Procedures); (b) discrimination (See Internal Discrimination/Harassment Complaint Procedure); or (c) sexual harassment complaints (See University Guidelines on Prohibition of Sexual Harassment).

ii. Actions or decisions that are the result of policies or changes in policies approved by the VCU Board of Visitors that affect the entire faculty are not grievable. Such disputes should be handled through the Office of the Provost.

Standing

This Procedure is intended for and limited to grievances in which the Grievant personally has been directly, materially or adversely affected by a decision or action of the Respondent.

Confidentiality

All oral and/or written materials prepared for mediation or grievance under this Procedure, and all statements and communications made as part of the processes described herein, are confidential. All participants (i.e., Mediator, Chairperson of the University Grievance Panel, Panel and Board members, and witnesses) are expected to hold all matters related to a mediation or grievance in confidence, to the extent permitted by law.

Roles and Responsibilities

The Grievant and Respondent and all other participants are expected to abide by all procedures outlined in this Policy, participate in good faith, and exercise discretion before, during, and after the process.

Contacts

The Office of the Provost and Senior Vice President for Academic Affairs officially interprets this policy. The Office of the Provost and Senior Vice President for Academic Affairs is responsible for obtaining approval for any revisions as required by the policy *Creating and Maintaining Policies and Procedures* through the appropriate governance structures. Please direct policy questions to The Office of the Provost and Senior Vice President for Academic Affairs.

Procedures

B. Virginia Commonwealth University Faculty Grievance Panel

1. Membership

The Virginia Commonwealth University (VCU) Faculty Grievance Panel (henceforth named University Grievance Panel) shall be composed of 35 faculty members elected by their respective schools as outlined in the Bylaws of the Faculty (See Article III), in addition to the Chairperson of the University Grievance Panel. Membership on the University Grievance Panel shall be apportioned among the schools annually by the Faculty Senate committee which is responsible for Senate apportionment, so that, insofar as possible, such members shall be elected proportionally to the number of full-time faculty in the respective school, provided that each school shall be represented by at least one member and no school shall be represented by more than eight members. The Deans of each school and the University Librarian are responsible for scheduling, conducting and overseeing the election of members to the University Grievance Panel in the spring semester, but no later than the end of the 9-month faculty contract period on May 15th. Each school shall elect one or more alternate members to the panel, with the number to be elected from each school to be one alternate for every two panel members, or fraction thereof, apportioned to the school. Alternates may serve on a University Grievance Board when panel members from their school are unavailable.

Members of the University Grievance Panel shall serve three-year terms that will begin August 16. If a member's term expires or if a member resigns, that member shall continue to serve as a member on any active Grievance Panel to which that member has been appointed. A member of the University Grievance Panel may be elected for a single successive term. Elections shall be staggered so that one-third of a school's panel members and alternates shall be elected annually, insofar as possible.

The Chairperson of the University Grievance Panel shall be elected to serve a term of office that shall begin August 16 and continue for three years thereafter. In February of the year in which the presiding Chairperson's term of office will expire, the Chairperson of the University Grievance Panel shall request that the president of the Faculty Senate appoint a nominating committee composed of three faculty which shall solicit University-wide nominations for the office of Chairperson of the University Grievance Panel. At the following month's meeting of the Faculty Senate, the nominating committee shall present to the Senate the names of one or more nominees for the office of Chairperson of the University Grievance Panel, at which time additional nominations may be made from the floor of the Senate. The consent of the nominee must be obtained. Elections shall be conducted at the next month's meeting of the Faculty Senate, and election shall be decided by plurality.

2. Duties

Within the first two weeks of the fall semester the panel shall elect one of its members to serve as Vice-Chairperson for the coming year. The Vice-Chairperson shall assume the responsibilities of the Chairperson when the Chairperson cannot serve due to conflict of interest, an absence of limited duration, or any other compelling circumstance. Should a vacancy occur in the office of Chairperson of the panel, nomination and election procedures for a Chairperson to fill the unexpired term shall be the same as given above except that the nominating committee shall be appointed either (a) no later than one month following the date of vacancy of the office, or (b) in the month of August following a vacancy

which occurs during the months of May, June or July. The newly elected Chairperson shall assume office immediately following the election and shall serve until the end of the unexpired term of office.

C. VCU Mediation Process

Those disputes that have not been resolved through good faith effort should proceed to mediation. The Grievant must initiate the mediation process within sixty (60) calendar days (excluding holidays and summer months) after the Grievant last observed the events or pattern of behavior(s) giving rise to the grievance. The Grievant may ask, as appropriate, a Dean, Vice President for Health Sciences, Provost/Vice President for Academic Affairs or University President, with approval of the Chairperson of the University Grievance Panel, to appoint a mutually agreeable mediator or may utilize the Mediation support in the Office of Human Resources for the VCU Mediation Process (see <http://www.hr.vcu.edu/employee/mediation.html>). After the mediation has occurred, the designated mediator shall submit a written report to all parties involved and to the Chairperson of the University Grievance Panel to explain that mediation was attempted. Once the mediator is agreed upon, the mediation process must be completed within 30 calendar days unless extended by the Grievant and Respondent.

D. Grievance Process

1. Submitting a Grievance

If a grievance is unresolved in the mediation process, the Grievant must submit the grievance in writing to the Chairperson of the University Grievance Panel. The Grievance must be filed within thirty (30) calendar days (excluding holidays and summer months) after the mediation report is submitted to the parties and Chairperson of the University Grievance Panel.

In the formal written grievance, the Grievant must provide (a) the basis for the grievance; (b) the Grievant's standing to assert the grievance, i.e., how the Grievant has been directly and adversely affected; (c) all steps that have already been taken to resolve the grievance; (d) the Respondent's involvement or decision and (e) the Grievant's desired remedy or outcome. Issues not raised in the written grievance shall not be considered.

2. Review Board

Upon receipt, the Chairperson shall ask three members of the University Grievance Panel (without interest or conflict in the matter), known as the Review Board, separately and confidentially to review in no more than fifteen (15) calendar days the grievance to determine (a) if the Grievant has satisfied all requirements for there to be jurisdiction under Section A.1 above, (b) whether the Grievant has made a good faith effort to resolve the matter, (c) whether there is an actual case or controversy currently presented, (d) whether the relief sought by the Grievant is within the power of the University to grant; and (e) whether the grievance is specific enough and has sufficient grounds upon which to proceed. All three of the Review Board members must decline to accept the grievance for the grievance not to move forward. If the decision is unanimous that the grievance will not move forward, the Chairperson will inform the Grievant and the Grievant has the option to revise his/her documentation and resubmit within fifteen (15) calendar days to be reviewed. After the second review by a new Review Board, if all three reviewers decline to accept the grievance, the grievance process ends.

3. University Grievance Board

If at least one of the three members of the Review Board decides to accept the grievance, the Chairperson shall appoint five members from the University Grievance Panel, who did not serve on the Review Board, to serve on a University Grievance Board to consider the grievance. The Chairperson of the University Grievance Panel shall make a reasonable attempt to have a balanced representation from the various faculty constituencies in appointing members to the University Grievance Board. The Chairperson of the University Grievance Panel shall immediately notify the Provost/Vice President for Academic Affairs and the Vice President for Health Sciences who, within five working days, shall each appoint one administrator to serve on the University Grievance Board. Should the Provost/Vice President for Academic Affairs or the Vice President for Health Sciences be a party to the grievance, an administrator from the same campus shall be designated by the President to serve on the University Grievance Board. Once the five members from the University Grievance Panel and the two administrators have been appointed, this University Grievance Board will schedule a hearing to occur within thirty (30) calendar days.

The members of the University Grievance Board shall select from the faculty members a Chairperson whose duties will include conveying in writing the Board's findings to the Chairperson of the University Grievance Panel.

4. Evidence and Witnesses

The University Grievance Board is empowered to gather information and documents specific to the case of the Grievant and take such actions as are necessary to investigate the grievance to the extent that the law (e.g., FERPA & HIPAA) and University policies permit. The Grievant and Respondent may present witnesses and/or the Board may ask witnesses to testify. All witnesses must be identified and all materials must be submitted at least 5 days prior to the hearing and each party notified of the witnesses and the reason for their testimony. The University Grievance Board shall issue its recommendations in writing within fifteen (15) calendar days from the date the hearing occurs to the Chairperson of the University Grievance Panel and the parties to the grievance.

5. Hearings

All hearings are closed to anyone other than the parties, their advisors (see Section D.6), and members of the University Grievance Board. Witnesses may be present only during their testimony. Hearings shall be recorded. A hearing is not a legal proceeding. At the beginning of the hearing, the Chairperson of the University Grievance Board will: 1) introduce the members of the University Grievance Board; 2) explain the hearing procedure to the parties including: a) the official record of the hearing; b) the order of presentation; and, c) the requirement of confidentiality; and 3) read the grievance.

6. Advisors

Each party to the grievance may have one advisor present during a hearing. The advisor's role is limited to advising the Grievant or Respondent. An advisor may not participate in a hearing, question any witnesses or University Grievance Board member, or in any way interfere with the proceedings. If a party's advisor is legal counsel, the party must notify the Chairperson of the University Grievance Board no more than 5 days after the date of the hearing is determined or no fewer than 5 days before the date of the hearing, whichever occurs first.

7. Consultations

The Office of the Provost, the Office of Human Resources, and/or the Office of General Counsel may be

consulted by the University Grievance Board on procedures or other matters involved in the dispute, as appropriate, including maintaining confidentiality, conducting a hearing, handling of documents, and preparing recommendations.

E. Findings / Remedy

1. Summary Report and Findings

At the conclusion of the grievance process, the Chairperson of the University Grievance Board shall submit a formal written report to the Chairperson of the University Grievance Panel, to the parties of the grievance and the supervisor(s) of the Grievant and Respondent, including the Dean/Director, Provost/Vice President for Academic Affairs or Vice President for Health Sciences, President, or Executive Committee of the Board of Visitors, as applicable from Section E.3.a. This report should include a description of the investigation, a summary of the findings of the University Grievance Board, its stated conclusion and, if appropriate, a remedy, and the basis for this remedy.

Findings must be based upon the standard whether the Grievant experienced a remediable injury attributable to the alleged violation of a right or privilege as listed in Section A.1.b. The burden is on the Grievant to establish by a preponderance of the evidence that he or she has experienced such an injury.

2. Acceptance of Remedy

If the University Grievance Board finds that the grievance is justified and a remedy is recommended, the Grievant shall, before receiving any such remedy, execute a written agreement recognizing the remedy to be satisfactory and waiving any claims to causes of action arising out of the grievance, to the extent permitted by law. If the Grievant refuses to sign such a statement, the grievance procedure ends and no remedy is implemented. If the University Grievance Board finds that the grievance is not justified, the grievance procedure ends. If there is failure to implement the remedy put forth by the University Grievance Board, the written agreement that the Grievant signed is null and void.

3. Resolution of Grievance

a. Responsible Administrator

If the Respondent is a Department Head/Chairperson or an administrator/staff member reporting directly to that Department Head/Chairperson, the "responsible administrator" is the Dean/Director. If the Respondent is a Dean/Director or an administrator/staff member reporting directly to that Dean/Director, the "responsible administrator" is the Provost/Vice President for Academic Affairs or by the Vice President for Health Sciences. If the Respondent is the Provost/Vice President for Academic Affairs or the Vice President for Health Sciences or an administrator/staff member reporting directly to the Provost/Vice President for Academic Affairs or to the Vice President for Health Sciences, the "responsible administrator" is the President. If the Respondent is the President or an administrator/staff member reporting directly to the President, the "responsible administrator" is the Executive Committee of the Board of Visitors.

b. Procedure of Responsible Administrator

For Type I and II grievances, the responsible administrator, as determined above, shall act in accordance with the remedy of the University Grievance Board. The responsible administrator shall notify the Grievant, the Respondent, the Chairperson of the University Grievance Board, and the Chairperson of the University Grievance Panel of the actions taken to satisfy the remedy of the University Grievance

Board including an explanation of such actions. This notification shall be presented in writing within fifteen (15) business days from the date of the report of the University Grievance Board.

4. Disputing Inaction of Remedy for a Type I Grievance

In cases of Type I grievances, if a Dean/Director does not act in accordance with the remedy of the University Grievance Board within fifteen (15) business days of receiving the remedy, the Grievant has the right to dispute the inactions of the Dean/Director within ten (10) business days to the Chairperson of the University Grievance Panel who shall provide all evidence obtained by the University Grievance Board to the Provost/Vice President for Academic Affairs or to the Vice President for Health Sciences within five (5) days of receipt. If the Provost/Vice President for Academic Affairs or the Vice President for Health Sciences does not act upon the remedy of the University Grievance Board within fifteen (15) business days, then the Grievant has the right to dispute the inaction to the Chairperson of the University Grievance Panel within ten (10) business days who shall provide all evidence obtained by the University Grievance Board to the President within five (5) business days. The President has fifteen (15) business days to respond.

In the case in which the Provost/Vice President for Academic Affairs or the Vice President for Health Sciences is responsible for acting upon the remedy of the University Grievance Board and does not take action within 15 days of receiving the remedy, the Grievant has the right to dispute the inaction to the Chairperson of the University Grievance Panel within ten (10) business days who shall provide all evidence obtained by the University Grievance Board to the President within five (5) business days. The President has fifteen (15) business days to respond.

5. Disputing Inaction of Remedy for a Type II Grievance

In cases of Type II grievances, if the responsible administrator (as defined in Section E.3.a) does not act in accordance with the remedy of the University Grievance Board within fifteen (15) business days of receiving the remedy, the Grievant has ten (10) business days to dispute the inaction of the responsible administrator. The dispute must be documented with specific details and must be in writing and delivered to the Chairperson of the University Grievance Panel. If a dispute is filed, the University Grievance Board shall provide all evidence it obtained in its investigation and all records of the University Grievance Board's proceedings to the Chairperson of the University Grievance Panel who will forward it to the next responsible administrator (as defined in Section E.3.a) within five (5) days of receipt. This administrator then has fifteen (15) business days to respond as described in Section E.3.b.

6. Finality of Dispute Process

For Type I grievances, the dispute process outlined in Section E.4 is final. For Type II grievances, the dispute process as outlined in Section E.5 is final.

F. Documentation

The initial grievance documents initiating mediation and grievance processes, including recording of the hearing, and appeals as well as final notification letters from the Dean/Director, Provost/Vice President for Academic Affairs, Vice President for Health Sciences, President, and/or Executive Committee of the Board of Visitors shall be filed in the Office of the Provost or in the Office of the President, as appropriate, where they will be maintained.

G. Procedures for Review and Amendment of this Procedure

Changes in the Faculty Mediation and Grievance Procedure may be initiated at the request of the Faculty Senate, the University Council or the chairperson of the University Grievance Panel. Upon such a request the president of the Faculty Senate shall appoint an ad hoc faculty committee from the University at large to review issues and recommendations regarding the University's grievance procedures and, if necessary, to recommend adjustments to the procedures. Membership on the ad hoc faculty committee shall include, but is not limited to, one or more faculty members who have served as members of the University Grievance Panel.

*Adapted with permission from Drexel University's Faculty Mediation and Grievance Policy (http://www.drexel.edu/provost/policies/faculty_grievance.html)

Forms

There are no forms associated with this policy and procedures.

Related Documents

1. University Rules and Procedures
2. Faculty Promotion and Tenure Policies and Procedures

Revision History

This policy supersedes the following archived policies:

Approval/Revision Date	1/1/1997
	7/2009
	12/07/2012

FAQs

Q: How do I find out who chairs the Grievance Committee?

A: Contact the Office of the Vice Provost for Academic and Faculty Affairs
804-828-6162